

SENATE BILL 681 (LRB -4894)

An Act to repeal 66.0617 (2) (am); to amend 66.0617 (1) (a), 66.0617 (1) (c), 66.0617 (1) (d), 66.0617 (1) (e), 66.0617 (1) (f), 66.0617 (1) (g), 66.0617 (1) (h), 66.0617 (2) (a), 66.0617 (2) (b), 66.0617 (2) (c), 66.0617 (3), 66.0617 (4) (a) (intro.), 66.0617 (4) (a) 3., 66.0617 (4) (b), 66.0617 (5) (b), 66.0617 (6) (b), 66.0617 (6) (d), 66.0617 (6) (g), 66.0617 (7), 66.0617 (8), 66.0617 (9) (a) and 66.0617 (10); and to create 66.0628 (3) of the statutes; relating to: changes to the impact fee law and imposing certain requirements on other fees imposed by political subdivisions. (FE)

2006

- 04-06. S. Introduced by Senators **Stepp, Grothman and Brown**; cosponsored by Representatives **Suder, Gard, Musser, Vos, Newcomer, Albers, Krawczyk, J. Fitzgerald, Gundrum, Kestell, Van Roy, Wood, Montgomery, Pettis, Ott, McCormick, Honadel and Moulton**.
- 04-06. S. Read first time and referred to committee on Housing and Financial Institutions 767
- 04-12. S. Public hearing held.
- 04-14. S. Report passage recommended by committee on Housing and Financial Institutions, Ayes 4, Noes 2 773
- 04-14. S. Available for scheduling.
- 04-18. S. Fiscal estimate received.
- 04-26. S. Placed on calendar 4-27-2006 by committee on Senate Organization.
- 04-27. S. Read a second time.
- 04-27. S. Senate amendment 1 offered by Senators Risser and Miller (**LRB a2979**).
- 04-27. S. Senate amendment 1 rejected.
- 04-27. S. Senate amendment 2 offered by Senator Stepp (**LRB a2942**).
- 04-27. S. Senate amendment 2 **adopted**.
- 04-27. S. Ordered to a third reading.
- 04-27. S. Rules suspended.
- 04-27. S. Read a third time and **passed**, Ayes 18, Noes 12.
- 04-27. S. Ordered immediately messaged.
- 04-27. A. Received from Senate.
- 04-27. A. Read first time and referred to committee on Rules.
- 04-27. A. Rules suspended to withdraw from committee on Rules and take up.
- 04-27. A. Assembly amendment 1 offered by Representative Black (**LRB a3016**).
- 04-27. A. Assembly amendment 1 laid on table.
- 04-27. A. Ordered to a third reading.
- 04-27. A. Rules suspended.
- 04-27. A. Read a third time and **concurred in**, Ayes 59, Noes 39.
- 04-27. A. Ordered immediately messaged.
- 04-28. S. Received from Assembly concurred in.

OK

2005 ENROLLED BILL

05en 5 B- 681

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr SubAmdt

05 4894 / 1

Amendments to above (if none, write "NONE"): SA2 - a2942/2

Corrections - show date (if none, write "NONE"):

None

Topic

Rel as amended

5-2-06

Date

JR Miller

Enrolling Drafter

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2005 SENATE BILL 681

April 6, 2006 - Introduced by Senators STEPP, GROTHMAN and BROWN, cosponsored by Representatives SUDER, GARD, MUSSER, VOS, NEWCOMER, ALBERS, KRAWCZYK, J. FITZGERALD, GUNDRUM, KESTELL, VAN ROY, WOOD, MONTGOMERY, PETTIS, OTT, MCCORMICK, HONADEL and MOULTON. Referred to Committee on Housing and Financial Institutions.

1 **AN ACT to repeal** 66.0617 (2) (am); **to amend** 66.0617 (1) (a), 66.0617 (1) (c),
 2 66.0617 (1) (d), 66.0617 (1) (e), 66.0617 (1) (f), 66.0617 (1) (g), 66.0617 (1) (h),
 3 66.0617 (2) (a), 66.0617 (2) (b), 66.0617 (2) (c), 66.0617 (3), 66.0617 (4) (a)
 4 (intro.), 66.0617 (4) (a) 3., 66.0617 (4) (b), 66.0617 (5) (b), 66.0617 (6) (b), 66.0617
 5 (6) (d), 66.0617 (6) (g), 66.0617 (7), 66.0617 (8), 66.0617 (9) (a) and 66.0617 (10);
 6 and **to create** 66.0628 (3) of the statutes; **relating to:** changes to the impact
 7 fee law and imposing certain requirements on other fees imposed by political
 8 subdivisions.

INS.
SA2-1

INSERT SA2-4

INSERT SA2-3

INS.
SA2-2

Analysis by the Legislative Reference Bureau

Under current law, a city, village, town, or county (political subdivision) may impose an impact fee on a developer to pay for the capital costs to construct certain public facilities that are necessary to accommodate land development. The definition of "public facilities" includes highways; facilities for treating sewage, storm waters, and surface waters; facilities for pumping, storing, and distributing water; parks, playgrounds, and other recreational facilities; fire protection, emergency medical, and law enforcement facilities; and libraries. Also under current law, an impact fee ordinance must require that an impact fee that is imposed and collected by a political subdivision, but not used within seven years after it is

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collected, be refunded, with interest, to the current owner of the property with regard to which the impact fee was imposed.

Under this bill, an impact fee may be imposed on the property owner and may only be imposed by a municipality (a city, village, or town). Also under the bill, "public facilities" does not include "other recreational facilities."

Currently, impact fees must be placed in a segregated, interest-bearing account, and must be accounted for separately from other funds of the political subdivision. Under the bill, a municipality must use generally accepted accounting principals (GAAP) to keep track of each particular impact fee, and each such impact fee must be kept in a separate account. Annually, the bill requires a municipality to issue a report on the amount of impact fees collected and the uses to which the fees are being put. The bill also imposes these accountability, GAAP, and reporting requirements on a political subdivision for other fees that it imposes.

Under current law, an impact fee must be paid by a developer to a political subdivision, either in full or in installments, before a building permit may be issued or other required approval may be given by the political subdivision. Under the bill, a developer must pay an impact fee in full to a municipality within 14 days of the municipality's issuance of a building permit or an occupancy permit.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INSERT SA2-5

1 ~~SECTION 1.~~ 66.0617 (1) (a) of the statutes is amended to read:

2 66.0617 (1) (a) "Capital costs" means the capital costs to construct, expand or

INSERT
SA2-6

3 improve public facilities, including the cost of land, and including legal, engineering

4 and design costs to construct, expand or improve public facilities, except that not

5 more than 10% of capital costs may consist of legal, engineering and design costs

6 unless the ~~political subdivision~~ municipality can demonstrate that its legal,

7 engineering and design costs which relate directly to the public improvement for

8 which the impact fees were imposed exceed 10% of capital costs. "Capital costs" does

9 not include other noncapital costs to construct, expand or improve public facilities,

10 vehicles; or the costs of equipment to construct, expand or improve public facilities.

11 **SECTION 2.** 66.0617 (1) (c) of the statutes is amended to read:

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1 66.0617 (1) (c) "Impact fees" means cash contributions, contributions of land
2 or interests in land or any other items of value that are imposed on a developer by
3 a ~~political subdivision~~ municipality under this section.

4 **SECTION 3.** 66.0617 (1) (d) of the statutes is amended to read:

5 66.0617 (1) (d) "Land development" means the construction or modification of
6 improvements to real property that creates additional residential dwelling units
7 within a ~~political subdivision~~ municipality or that results in nonresidential uses that
8 create a need for new, expanded or improved public facilities within a ~~political~~
9 ~~subdivision~~ municipality.

10 **SECTION 4.** 66.0617 (1) (e) of the statutes is amended to read:

11 66.0617 (1) (e) ~~"Political subdivision"~~ "Municipality" means a city, village, town
12 ~~or county or town~~.

13 **SECTION 5.** 66.0617 (1) (f) of the statutes is amended to read:

14 66.0617 (1) (f) "Public facilities" means highways, as defined in s. 340.01 (22),
15 and other transportation facilities, traffic control devices, facilities for collecting and
16 treating sewage, facilities for collecting and treating storm and surface waters,
17 facilities for pumping, storing, and distributing water, parks, and playgrounds and

18 ~~other recreational facilities,~~ solid waste and recycling facilities, fire protection
19 facilities, law enforcement facilities, emergency medical facilities and libraries
20 except that, with regard to counties, "public facilities" does not include highways, as
21 defined in s. 340.01 (22), ~~other transportation facilities or traffic control devices.~~

22 "Public facilities" does not include facilities owned by a school district.

23 **SECTION 6.** 66.0617 (1) (g) of the statutes is amended to read:

24 66.0617 (1) (g) "Service area" means a geographic area delineated by a ~~political~~
25 ~~subdivision~~ municipality within which there are public facilities.

INS.
SA2-8

SENATE BILL 681**SECTION 7**

1 **SECTION 7.** 66.0617 (1) (h) of the statutes is amended to read:

2 66.0617 (1) (h) "Service standard" means a certain quantity or quality of public
3 facilities relative to a certain number of persons, parcels of land or other appropriate
4 measure, as specified by the ~~political subdivision~~ municipality.

5 **SECTION 8.** 66.0617 (2) (a) of the statutes is amended to read:

6 66.0617 (2) (a) ~~Subject to par. (am), a political subdivision~~ A municipality may
7 enact an ordinance under this section that imposes impact fees on developers to pay
8 for the capital costs that are necessary to accommodate land development.

9 **SECTION 9.** 66.0617 (2) (am) of the statutes is repealed.

10 **SECTION 10.** 66.0617 (2) (b) of the statutes is amended to read:

11 66.0617 (2) (b) Subject to par. (c), this section does not prohibit or limit the
12 authority of a ~~political subdivision~~ municipality to finance public facilities by any
13 other means authorized by law, except that the amount of an impact fee imposed by
14 a ~~political subdivision~~ municipality shall be reduced, under sub. (6) (d), to
15 compensate for any other costs of public facilities imposed by the ~~political subdivision~~
16 municipality on developers to provide or pay for capital costs.

17 **SECTION 11.** 66.0617 (2) (c) of the statutes is amended to read:

18 66.0617 (2) (c) Beginning on May 1, 1995, a ~~political subdivision~~ municipality
19 may impose and collect impact fees only under this section.

20 **SECTION 12.** 66.0617 (3) of the statutes is amended to read:

21 66.0617 (3) **PUBLIC HEARING; NOTICE.** Before enacting an ordinance that imposes
22 impact fees, or amending an existing ordinance that imposes impact fees, a ~~political~~
23 ~~subdivision~~ municipality shall hold a public hearing on the proposed ordinance or
24 amendment. Notice of the public hearing shall be published as a class 1 notice under

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1 ch. 985, and shall specify where a copy of the proposed ordinance or amendment and
2 the public facilities needs assessment may be obtained.

3 **SECTION 13.** 66.0617 (4) (a) (intro.) of the statutes is amended to read:

4 66.0617 (4) (a) (intro.) Before enacting an ordinance that imposes impact fees
5 or amending an ordinance that imposes impact fees by revising the amount of the fee
6 or altering the public facilities for which impact fees may be imposed, a ~~political~~
7 ~~subdivision~~ municipality shall prepare a needs assessment for the public facilities
8 for which it is anticipated that impact fees may be imposed. The public facilities
9 needs assessment shall include, but not be limited to, the following:

10 **SECTION 14.** 66.0617 (4) (a) 3. of the statutes is amended to read:

11 66.0617 (4) (a) 3. A detailed estimate of the capital costs of providing the new
12 public facilities or the improvements or expansions in existing public facilities
13 identified in subd. 2., including an estimate of the effect of recovering these capital
14 costs through impact fees on the availability of affordable housing within the
15 ~~political subdivision~~ municipality.

16 **SECTION 15.** 66.0617 (4) (b) of the statutes is amended to read:

17 66.0617 (4) (b) A public facilities needs assessment or revised public facilities
18 needs assessment that is prepared under this subsection shall be available for public
19 inspection and copying in the office of the clerk of the ~~political subdivision~~
20 municipality at least 20 days before the hearing under sub. (3).

21 **SECTION 16.** 66.0617 (5) (b) of the statutes is amended to read:

22 66.0617 (5) (b) An ordinance enacted under this section may delineate
23 geographically defined zones within the ~~political subdivision~~ municipality and may
24 impose impact fees on land development in a zone that differ from impact fees
25 imposed on land development in other zones within the ~~political subdivision~~

SENATE BILL 681**SECTION 16**

1 municipality. The public facilities needs assessment that is required under sub. (4)
2 shall explicitly identify the differences, such as land development or the need for
3 those public facilities, which justify the differences between zones in the amount of
4 impact fees imposed.

5 **SECTION 17.** 66.0617 (6) (b) of the statutes is amended to read:

6 66.0617 (6) (b) May not exceed the proportionate share of the capital costs that
7 are required to serve land development, as compared to existing uses of land within
8 the political subdivision municipality .

9 **SECTION 18.** 66.0617 (6) (d) of the statutes is amended to read:

10 66.0617 (6) (d) Shall be reduced to compensate for other capital costs imposed
11 by the ~~political subdivision~~ municipality with respect to land development to provide
12 or pay for public facilities, including special assessments, special charges, land
13 dedications or fees in lieu of land dedications under ch. 236 or any other items of
14 value.

15 **SECTION 19.** 66.0617 (6) (g) of the statutes is amended to read:

16 66.0617 (6) (g) Shall be payable by the developer or the property owner to the
17 ~~political subdivision, either~~ municipality in full ~~or in installment payments that are~~
18 ~~approved by the political subdivision, before~~ within 14 days of the issuance of a
19 ~~building permit may be issued or other required approval may be given~~ within 14
20 days of the issuance of an occupancy permit by the political subdivision municipality.

21 **SECTION 20.** 66.0617 (7) of the statutes is amended to read:

22 66.0617 (7) LOW-COST HOUSING. An ordinance enacted under this section may
23 provide for an exemption from, or a reduction in the amount of, impact fees on land
24 development that provides low-cost housing, except that no amount of an impact fee
25 for which an exemption or reduction is provided under this subsection may be shifted

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1 to any other development in the land development in which the low-cost housing is
2 located or to any other land development in the ~~political subdivision~~ municipality.

3 **SECTION 21.** 66.0617 (8) of the statutes is amended to read:

4 66.0617 (8) REQUIREMENTS FOR ~~AND REPORTING ON~~ IMPACT FEE REVENUES.

5 Revenues from each impact fees fee that is imposed shall be placed in a separate

6 segregated, interest-bearing account and shall be accounted for in accordance with

7 generally accepted accounting practices, separately from the other funds of the

8 ~~political subdivision~~ municipality. Impact fee revenues and interest earned on

9 impact fee revenues may be expended only for the particular capital costs for which

10 the impact fees were fee was imposed, unless the fee is refunded under sub. (9).

11 ~~Annually, a municipality shall publish, as a class 1 notice under ch. 985, a report that~~

12 ~~lists each impact fee imposed by the municipality which is in an account described~~

13 ~~in this subsection and the capital costs for which the fee was spent or is to be spent.~~

14 **SECTION 22.** 66.0617 (9) (a) of the statutes, as affected by 2005 Wisconsin Act
15 203, is amended to read:

16 66.0617 (9) (a) Subject to par. (b), an ordinance enacted under this section shall

17 specify that impact fees that are imposed and collected by a ~~political subdivision~~

18 municipality but are not used within 7 years after they are collected to pay the capital

19 costs for which they were imposed shall be refunded to the current owner of the

20 property with respect to which the impact fees were imposed, along with any interest

21 that has accumulated, in described in sub. (8). The ordinance shall specify, by type

22 of public facility, reasonable time periods within which impact fees must be spent or

23 refunded under this subsection, subject to the 7-year limit in this paragraph and the

24 extended time period specified in par. (b). In determining the length of the time

25 periods under the ordinance, a ~~political subdivision~~ municipality shall consider what

INS.
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SECTION 22

1 are appropriate planning and financing periods for the particular types of public
2 facilities for which the impact fees are imposed.

3 **SECTION 23.** 66.0617 (10) of the statutes is amended to read:

4 66.0617 (10) APPEAL. A ~~political subdivision~~ municipality that enacts an
5 impact fee ordinance under this section shall, by ordinance, specify a procedure
6 under which a developer upon whom an impact fee is imposed has the right to contest
7 the amount, collection or use of the impact fee to the governing body of the ~~political~~
8 ~~subdivision~~ municipality.

9 **SECTION 24.** 66.0628 (3) of the statutes is created to read:

10 66.0628 (3) Revenues from each fee that is imposed shall be placed in a
11 separate segregated interest-bearing account and shall be accounted for, in
12 accordance with generally accepted accounting practices, separately from the other
13 funds of the political subdivision. Annually, a political subdivision shall publish, as
14 a class 1 notice under ch. 985, a report that lists each fee imposed by the political
15 subdivision which is in an account described in this subsection and the purposes for
16 which the fee was spent or is to be spent.

17

(END)

INSERT SA2-15

**SENATE AMENDMENT 2,
TO 2005 SENATE BILL 681**

April 27, 2006 – Offered by Senator STEPP.

1 At the locations indicated, amend the bill as follows:

2 ✓ **1.** Page 1, line 7: delete “and imposing” and substitute “, imposing”. SA2-1

3 ✓ **2.** Page 1, line 7: after “certain” insert “publication”. SA2-2

4 ✓ **3.** Page 1, line 7: delete “on other fees imposed” and substitute “for the budget
5 summaries that are published”. SA2-3

6 ✓ **4.** Page 1, line 8: after “subdivisions” insert “, and imposing certain
7 requirements on plat approval conditions”. SA2-4

8 ✓ **5.** Page 2, line 1: before that line insert:

9 “SECTION 1g. 65.90 (3) (b) 3. of the statutes is created to read:

10 65.90 (3) (b) 3. Revenue and expenditure totals for each impact fee that is
11 imposed by a municipality.”. SA2-5

12 ✓ **6.** Page 2, line 1: delete “SECTION 1” and substitute “SECTION 1r”. SA2-6

1 ✓ 7. Page 3, line 17: delete “parks, and playgrounds and” and substitute “parks,
2 playgrounds, and”. SA2-7

3 ✓ 8. Page 3, line 18: delete “facilities” and substitute “land for athletic fields”. SA2-8

4 ✓ 9. Page 7, line 4: delete “AND REPORTING ON”. ~~SA2-9~~

5 ✓ 10. Page 7, line 6: delete “, in accordance with”. ~~SA2-10~~

6 ✓ 11. Page 7, line 7: delete “generally accepted accounting practices”. ~~SA2-11~~

7 ✓ 12. Page 7, line 10: delete “(9).” and substitute “(9).”. SA2-12

8 ✓ 13. Page 7, line 11: delete lines 11 to 13.

9 ✓ 14. Page 8, line 9: delete lines 9 to 16.

10 15. Page 8, line 16: after that line insert: SA2-15

11 “SECTION 25m. 236.45 (6) of the statutes is created to read:

12 236.45 (6) REQUIREMENTS FOR APPROVAL CONDITIONS. (a) Notwithstanding subs.
13 (1) and (2) (a) (intro.), a municipality, town, or county may not, as a condition of
14 approval under this chapter, impose any fees or other charges to fund the acquisition
15 or improvement of land, infrastructure, or other real or personal property.

16 (b) Any land dedication, easement, or other public improvement required by a
17 municipality, town, or county as a condition of approval under this chapter must bear
18 a rational relationship to a need for the land dedication, easement, or other public
19 improvement resulting from the subdivision or other division of land.

20 **SECTION 26m. Initial applicability.**

21 (1) REQUIREMENTS FOR APPROVAL CONDITIONS. The treatment of section 236.45
22 (6) of the statutes first applies to a certified survey map, a preliminary plat, or, if no

SA 2-15

1 preliminary plat was submitted, a final plat that is submitted for approval on the
2 effective date of this subsection.”.

3 (END)